

R.D. #0017-04
East Hanover, NJ

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 22**

GIVAUDAN FLAVORS CORPORATION¹

Employer

and

CASE 22-RC-12535

**TEAMSTERS LOCAL 125, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, AFL-CIO**

Petitioner

DECISION AND ORDER

I. INTRODUCTION:

The Petitioner filed a petition, amended at the hearing, under Section 9(c) of the National Labor Relations Act, seeking to represent a unit of all full-time and regular part-time flavor operators, senior flavor operators and shift leaders employed by the Employer in Building 2 of its East Hanover, New Jersey facility. The Employer asserts that the only appropriate unit would be a broader production and maintenance unit covering other departments and buildings at its East Hanover facility.

I find, for the reasons described below, that the petitioned for unit is inappropriate and, therefore, that the petition must be dismissed.

¹ The name of the Employer appears as amended at the hearing.

Under Section 3(b) of the Act, I have the authority to hear and decide this matter on behalf of the National Labor Relations Board. Upon the entire record in this proceeding,² I find:

1. The hearing officer's rulings are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.³

3. The labor organization involved claims to represent certain employees of the Employer.⁴

4. No question affecting commerce exists concerning the representation of certain employees of Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act, for the following reasons:

II. BACKGROUND AND POSITION OF PARTIES:

The Employer is a producer of flavors. It operates a campus-like facility in East Hanover, New Jersey, comprising eleven buildings where employees are stationed for various stages of the Employer's manufacturing operation. Petitioner seeks to represent certain of those employees, specifically those in the Employer's Basic Manufacturing Group, which operates in Building 2. Thus, Petitioner amended its petition at hearing to include all full time and regular part time flavor operators, senior flavor operators and shift leaders employed by the Employer in Building 2 of its 1

² Briefs filed by the parties have been duly considered.

³ The Employer is engaged in the manufacture, sale and distribution of flavors at its 1 Merry Way, East Hanover, New Jersey facility, the only facility involved herein.

⁴ The parties stipulated and I find that the Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

Merry Way, East Hanover, New Jersey facility, excluding all office clerical employees, managerial employees, guards and supervisors as defined in the Act and all other employees. In all, Petitioner seeks to represent a unit of approximately 27 employees.

The Employer contends that the unit sought by the Petitioner is inappropriate in that it fractionalizes the unit, excluding many individuals who share a community of interest with the sought-after employees. The Employer suggests that the only appropriate unit would be a typical production and maintenance unit that includes the other production and maintenance classifications working in other buildings on its East Hanover campus, as well as senior flavor operators who work other than in Building 2. In all, the Employer's unit would consist of approximately 130 employees.

III. FACTS:

The Petitioner did not offer any witnesses or documentary evidence at the hearing. The Employer presented three witnesses: Lee McCombs (Liquid Compounding Manager), Maria Rangos (HR Specialist), and Robert Gonzalez (Basic Manufacturing Manager). The witnesses described a highly integrated enterprise at the facility, involving employees in various buildings working together – at times, side by side – toward the production of the Employer's product. The facility is one contiguous unit, as reflected in the survey plan submitted as Employer's Exhibit 1, with pedestrian routes connecting the various buildings. There is one common parking lot shared by the employees of all the buildings. There is likewise only one cafeteria available to employees from all the buildings.

McCombs testified about the Employer's manufacturing operation. The Employer receives all the raw materials it needs at its warehouse in Building 4, from

which it is distributed to Buildings 2, 3 or 6 for processing. Much of the resulting product from Building 2 is then delivered by employees of the Petitioner's proposed unit to a staging area between Buildings 2 and 4 for further processing in other buildings at the facility. The process continues as such, with the product flowing from building to building until completion. McCombs also testified that during the Employer's busy season, lasting four months, about a third of the employees in Building 2 routinely interchange by working overtime in other buildings as well as their own. Likewise, it is undisputed that production employees stationed in other buildings at the East Hanover campus routinely are assigned to work in Building 2 as needed.

Gonzalez, who works primarily in Building 2, testified that many of the operations in Building 2 are essentially the same as those in Building 3, with both performing extractions and distillations with similar equipment and procedures. Building 2 is just the larger of the two operations. The raw materials needed in both buildings are obtained through the same purchasing department. Equipment maintenance is performed by the same corporate engineering department. In addition, the training for equipment, safety, software, and quality control are all conducted facility-wide.

Turning to the sought-after unit employees, the record facts demonstrate that they share a uniform system of pay, bonuses, benefits, vacation, and working conditions with the other production and maintenance employees throughout the East Hanover campus. Specifically, employees in Buildings 2, 4 and 6 are paid hourly within common salary bands unaffected by which building an employee works in.

McCombs explained that employees are also eligible for bonuses through the “plant sharing performance plan,” which is calculated facility-wide based on sales, on-time delivery and customer complaints. All hourly employees facility-wide receive the same amount.

The record further discloses that there is substantial supervisory and managerial integration throughout the entire facility. Rangos testified that there is one human resources department for the entire facility, which administers job postings and hiring throughout the facility and oversees discipline throughout the facility to ensure fairness and consistency campus-wide. Standardized forms are used for discipline in all buildings, and there is one employee handbook covering the entire facility.

Rangos testified further that the vacation and sick leave policies are the same throughout the facility, as is the health care plan – including identical benefit options, dental coverage, premiums and eligibility. Seniority is determined from the date of hire at the facility, without regard to which building an employee works in. In sum, the record is devoid of any evidence of a community of interest among the petitioned-for employees that would set them apart or distinguish them from other employees at the facility.

IV. LEGAL ANALYSIS:

In its brief, Petitioner argues that Building 2 constitutes a single facility and that the Board’s rebuttable presumption that a single facility unit is appropriate is applicable in this case. However, while the Petitioner correctly observes that there is a presumption that a single facility unit is an appropriate bargaining unit, I find the petitioned-for unit here is not a single facility unit. In seeking only the employees

assigned to Building 2, Petitioner ignores what appears to be a single campus facility that is one contiguous, highly integrated enterprise. This is not a choice between a single-facility and a multi-facility unit. Rather, the petitioned-for unit is only a portion of the single facility operated by the Employer at its East Hanover campus.

That the East Hanover campus functions as a single facility is evidenced by more than just geography.⁵ Indeed, centralized management oversees all areas of the facility, leading to uniformity in virtually every aspect of employee working conditions campus-wide. *Transerv System*, 311 NLRB 266 (1993); *Sears, Roebuck & Co.*, 319 NLRB 607 (1995). The record evidence demonstrates that employee skills and functions from building to building are sufficiently similar to establish a community of interest among those employees the Employer suggests be included in the Unit. *Seaboard Marine Ltd.*, 327 NLRB 556 (1999). Further, employees perform similar production functions in Buildings 3 and 6, and it is undisputed that senior flavor operators are assigned to buildings other than Building 2.

Based on the record facts, I find that Building 2 is not a separate entity, but rather, is an integrated area of one contiguous facility. Therefore, I find that no presumption of appropriateness applies to the petitioned-for unit. In finding that the entire facility is a single unit, I note that it is well established that the Board does not approve of fractured units or units that are so narrowly construed as to omit employees who share a community of interest. *Colorado National Bank of Denver*, 204 NLRB 243 (1973).

⁵ As noted above, the East Hanover campus is one contiguous site with pedestrian routes connecting the various buildings.

In that regard, I find that the petitioned for employees do not share a sufficiently distinct community of interest from those of the other production, maintenance and warehouse employees at East Hanover as to warrant a separate unit and that the petitioned for unit would be an arbitrary one. *Seaboard*, supra at 556 citing *Branch Provision Services*, 313 NLRB 657 (1994). The only appropriate unit herein would be one including production and maintenance employees employed throughout the Employer's East Hanover campus.

The Petitioner expressly declined the opportunity to participate in a broader unit than that petitioned for. Therefore, as the Petitioner has clearly indicated that it would not proceed to an election in any other unit if the unit it sought were deemed inappropriate, I shall dismiss the petition. Cf. *The Folger Coffee Co.*, 250 NLRB 1 (1980) (petitioner expressed willingness to proceed to election in any broader unit found appropriate); *N. Sumergrade & Sons*, 121 NLRB 667, 670 (1958) (petitioner changed its position and stated willingness to proceed).

V. ORDER:

IT IS HEREBY ORDERED that the petition filed herein be, and it hereby is, dismissed.

VI. RIGHT TO REQUEST REVIEW:

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. The Board in Washington must receive this request by **December 10, 2004.**

Signed at Newark, New Jersey this 26th day of November, 2004.

/s/Bernard Suskewicz

Bernard Suskewicz, Acting Reg. Director
NLRB Region 22
Veterans Administration Building
20 Washington Place, 5th Floor
Newark, New Jersey 07102